



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,739	11/30/2001	Claude A. Marbler	ATM-2301	4484

7590

01/10/2003

Fisher Christen & Sabol
Suite 1108
1725 K Street, N.W.
Washington, DC 20006

EXAMINER

RHEE, JANE J

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 01/10/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,739

Applicant(s)

MARBLER ET AL.

Examiner

Jane J Rhee

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-41 is/are pending in the application.
- 4a) Of the above claim(s) 12-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 12-41 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 12,16-19,21-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "easy, essentially, type" in claims 12,16-19,21-27 is a relative term which renders the claim indefinite. The term "easy, essentially, type" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12-30,32,34-36,38-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Schlaeppli et al. (0596747).

Schlaeppli et al. discloses a process comprising manufacturing a multilayer packaging film for an easy open form of packaging (col. 1 lines 1-3) having at least one line of perforations (figure 1 number 8) that are provided in a plastic surface layer of the

Art Unit: 1772

packaging and serve as an aid for alignment of a tear line propagating in the packaging film upon tearing open the packaging (col. 2 lines 45-49), including cutting the perforations into a surface layer which is in the form of a film (col. 3 lines 9-11), and joining the precut film to the other layers to make up a composite film (col. 3 lines 10-13). Schlaeppi et al. discloses that the film is joined to the other layers by means of an adhesive layer to make up a composite film (col. 4 lines 19-20). Schlaeppi et al. discloses that the perforations are cut before coating the film with adhesive (col. 4 lines 15-21). Schlaeppi et al. discloses that the perforations are cut after coating the film with adhesive (col. 5 lines 15-21). Schlaeppi et al. discloses that the two lines of perforations are cut essentially parallel to each other and a distance apart as guidelines on both sides of a tear which propagates in the film on tearing open the packaging (figure 1 numbers 8a and 8b). Schlaeppi et al. discloses that the packaging film is employed for the production of pouch-type forms of packaging (figure 1). Schlaeppi et al. discloses that the film is joined to the other layers by means of extrusion to make up a composite film (col. 4 lines 20-21). Schlaeppi et al. discloses that the perforations are situated on the inner side of the packaging (col. 6 lines 24-25). Schlaeppi et al. discloses a notch for initiating tearing is provided in the region of the perforations (col. 1 line 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1772

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 30-34,36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlaepi et al. in view of Olivieri et al. (98/29312).

Schlaepi et al. discloses the process and package described above. Schlaepi fail to disclose that the notch is situated between the two lines of perforations. Olivieri et al. discloses a notch inbetween the two lines of perforations (figure 8 number 431) for the purpose of tearing the materials forming the pack (page 15 lines 3-4).

Therefore, it would have been obvious to one of ordinary skill in the art to provide Schlaepi et al. with a notch inbetween the two lines of perforations in order to tear the materials forming the pack (page 15 lines 3-4) as taught by Olivieri et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Art Unit: 1772

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee
January 8, 2003


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

1/8/03